



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,712	10/27/2000	Hong Heather Yu	9432-000122	5774

7590 01/04/2005

Harness Dickey & Pierce PLC
P O Box 828
Bloomfield Hills, MI 48303

EXAMINER

REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
----------	--------------

2131

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/698,712

Applicant(s)

YU ET AL.

Examiner

Christopher A. Revak

Art Unit

2131

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 02 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: please see attachment for explanation.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-25.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: PTO-892

ADVISORY ACTION

Response to Arguments

1. Applicant's arguments filed December 2, 2004 have been fully considered but they are not persuasive. The proposed amendments will not be entered since they will require further searching and consideration.
2. The applicant has additionally argued that the publication of the reference by Wu et al is not in fact September 1999, but should be November 1999 and accordingly, disqualified as being rejected under 35 U.S.C. 102(b). The applicant's statements of facts are insufficient evidence to overcome the prior art by showing a later date for the teachings of Wu et al. The applicant's statements are tantamount to hearsay and would require affidavits to establish the facts on record. The applicant is required to provide a written affidavit attesting to the statements of facts by inventor Hong Heather Yu why the Information Disclosure Statement filed on February 19, 2004 lists the reference by Wu et al as a publication date of September 1999 and then changing it to November 1999 in the after final response, and to explain why the date of the handouts show a publication date of September 20, 1999 versus the actual publication date of November 1999 as indicated by the inventor. The applicant is additionally required to submit a written affidavit from the business, or organization, responsible for the conference and to discuss what procedure is taken to receiving documents for the conferences, how they publish, the length of time for reception to publishing including average delays until made public, and for them to indicate the critical date of being either September 1999 or

Art Unit: 2131

November 1999. The examiner has found a resume from co-author Min Wu listing the reference in question as a publication date of September 1999, please see page CV-6.

The examiner will not consider the evidence as filed because they introduce new issues and would require further consideration that exceeds the level of consideration that is permitted for after final responses.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CR

CR
December 20, 2004

E. L. Moise
EMMANUEL L. MOISE
PRIMARY EXAMINER